



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 603 (Sub-No. 4X)]

V and S Railway, LLC—Abandonment Exemption—in Pueblo, Crowley, and Kiowa Counties, Colo.

V and S Railway, LLC (V&S) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—Exempt Abandonments to abandon a line of railroad extending between milepost 747.5 near Towner and milepost 869.4 near NA Junction, a distance of 121.9 miles in Pueblo, Crowley, and Kiowa Counties, Colo. (the Towner Line). The Towner Line traverses United States Postal Service Zip Codes 81022, 80125, 81062, 81033, 81063, 81076, 81021, 81045, 81036, and 81071.

V&S has certified that: (1) no local traffic has moved over the Towner Line for at least two years; (2) any overhead traffic on the Towner Line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Towner Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Towner Line is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period;<sup>1</sup> and (4) the requirements at 49 CFR 1105.7(c)

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<sup>1</sup> In Docket No. NOR 42140, the Colorado Wheat Administrative Committee, the Colorado Association of Wheat Growers, the Colorado Wheat Research Foundation, and KCVN, LLC (collectively, the Colorado Interests) filed a complaint alleging that V&S has violated 49 U.S.C. 11101 and 10903 by removing certain track and related assets

(environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to government agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 20, 2015, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 31, 2015. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28

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from a segment of the Towner Line over which the Board had previously permitted V&S to discontinue service. See V&S Ry.—Discontinuance of Serv. Exemption—in Pueblo, Crowley, & Kiowa Cntys., Colo., AB 603 (Sub-No. 2X) (STB served June 28, 2012). This segment of the Towner Line, known as the Western Segment, extends between milepost 808.3 near Haswell, Colo., and milepost 868.5. The Board granted the joint petition of V&S and the Colorado Interests asking that the agency stay that complaint proceeding so that V&S could file for the abandonment exemption it seeks here. See Colo. Wheat Admin. Comm. v. V&S Ry., NOR 42140 (STB served July 17, 2015). Based on these facts, the certification is accurate.

<sup>2</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>3</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 CFR 1002.2(f)(25).

must be filed by September 10, 2015, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to applicant's representative: Fritz R. Kahn, Fritz R. Kahn, P.C., 1919 M Street, N.W., 7th Floor, Washington, DC 20036.

If the verified notice contains false or misleading information, the exemption is void ab initio.

V&S has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by August 28, 2015. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), V&S shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Towner Line. If consummation has not been effected by filing of a notice of consummation by August 21, 2016, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at  
“WWW.STB.DOT.GOV.”

Decided: August 18, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig

Clearance Clerk

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